



July 19, 2005

Mr. Jim Kellogg, President
California Fish and Game Commission
1416 Ninth Street
P.O. Box 944209
Sacramento, CA 94244-2090

Subject: MLPA Framework Comments

Dear President Kellogg and members of the Commission:

The Natural Resources Defense Council (NRDC) and The Ocean Conservancy (TOC) respectfully submit these comments on behalf of our more than a million and a half members, activists and volunteers. We are heartened that Governor Schwarzenegger has made implementation of the Marine Life Protection Act a priority in his Ocean Action Plan, and we look forward to working with the Fish and Game Commission and the Blue Ribbon Task Force to realize the vision of healthy California oceans for the longterm.

We appreciate the hard work the Marine Life Protection Act Blue Ribbon Task Force has done to craft this Framework and integrate extensive public comment into it. While there are a number of things we would like to see changed, we believe that the Task Force has listened to all parties and placed a high priority on achieving a fair balance among diverse interests. We therefore support, as our first choice, adoption of this Framework by the Fish and Game Commission as is, recognizing that it will be a living document that you may adapt to incorporate knowledge gained from the experience of siting and implementing MPAs at the regional level. If, however, you decide to make changes now in this document, we have a number of specific recommendations for changes.

The BRTF and their staff took several months to draft this Framework to guide implementation of the MLPA. They did so after convening experts and panels of stakeholders to address a broad array of topics covered by the Framework, listening to the advice of the broadly representative Statewide Interest Group (made up of sport and commercial fishermen, harbor masters, conservation groups, divers, educators and other members of the public) and the Science Advisory Team (made up of biological scientists, oceanographers, economists and representatives of DFG and other agencies), taking public comment at meetings in various parts of the state, and synthesizing verbal and written comments by diverse participants. The number of avenues for participation, and the attention and care given to ensuring that a full array of interested parties would have an opportunity for input, have been unprecedented for a state decision relating to fish and wildlife.

In addition to listening to and balancing comments from diverse interests, the BRTF has compiled a document that takes major steps toward meeting the requirements for an MLPA master plan, while providing an orderly, phased means of completing the remaining steps. Specifically, the Framework includes the following four of the eleven components the MLPA requires in a Master Plan: (1) recommendations for habitats that should be included in the MPA system; (2) identification of species likely to benefit from MPAs; (3) recommendations for augmented design guidelines; and (4) a simplified classification system for MPAs. It establishes a process for preparing the other seven, which are either in production (e.g. recommendations for improving enforcement and providing funding) or dependent on the regional siting process that is outlined in the Framework (e.g. recommendations for a preferred siting alternative and for monitoring and evaluating that system). The Framework thus represents a systematic, phased effort to fulfill the requirements of the MLPA in a manner that allows full participation by interested parties and transparency in decisionmaking.

There have been sources of frustration along the way, as the staff has often done heroic duty putting an infrastructure in place under stressful timelines. But this combination of ample opportunity for public participation, clear decision making processes, and phasing to make the goals achievable sets the Framework and this initiative apart from previous efforts to implement the act. In recognition of the significant progress made and the balancing job the Task Force has done, we urge the Commission to adopt this Framework as is.

However, if you choose to amend this document, we recommend the following specific changes, in edit mode.

1. Framework applies statewide. Exec Summary: p. 1, ¶ 5, line 6. We suggest clarifying that the framework provides guidance for development of MPA alternatives for the whole state, beginning in a central coast region, with the following edit: “....framework, which includes guidance, based on the MLPA, for the development of alternative proposals of MPAs statewide, beginning in an initial central coast study area.”

2. Developing a preferred alternative is a goal of the process. Exec Sum, p.2, ¶ 2. The overall aim of the process includes development and adoption of a preferred alternative for MPAs. We suggest the following edits to make this clear: “The overall aim of this five-step process is developing alternative MPA proposals for consideration by DFG, and selection and adoption of a preferred alternative by DFG and the Fish and Game Commission, respectively.”

3. Biogeographic regions should be defined by the Science Advisory Team (SAT): On p.4, ¶ 4, the text notes that the MLPA authorizes the master plan science team to modify the biogeographic regions identified in the Act. The identification of such regions is an important element of habitat-based network design. The concept of a network made up of replicated areas in representative habitats applies within a bioregion where species assemblages are generally similar. However, the BRTF’s decision to recognize only a single bioregional province break in all of California waters ignores additional biogeographic regions identified by the SAT, which are described in item #4 on that page. The MLPA involves biogeographical *regions with distinctive biological characteristics*, not the provinces that are incorporated in the Framework

(see MLPA Section 2852 (b)). The Framework should identify the regions in #4, with boundaries at Point Conception, Monterey Bay and/or San Francisco Bay and Cape Mendocino (clarified as needed by the SAT) as the biogeographical regions to be used for purposes of MPA design, consistent with Sections 2852 and 2857 of the MLPA.

4. Peer review should apply to regional profile and economic impact assessment of network proposals. Spread Sheet, p. 26: We suggest that the regional profile (1) and assessment of potential positive and negative impacts of network proposals (3) should be subject to peer review (or review by the SAT), and that such a review be initiated as soon as those tasks are completed. That way, any necessary changes can be taken into account while the regional design process is still underway.

5. Monitoring and evaluation. We appreciate the early consideration of monitoring and evaluation indicators (see spread sheet, p26 #1). Integration of monitoring in the MPA design process is a strength of the Framework.

6. Review of Framework and RSG Process. We suggest adding a provision for review of how the Framework worked for the Central Coast design process. Such a review would help decision makers apply adaptive management, making sure that lessons learned on the Central Coast inform and improve the process for the rest of the state. Reviewers should assess and report such lessons as soon as possible after the development of alternatives is completed, with an emphasis on recommendations to modify or eliminate steps that didn't work, retain what did work, and simplify the siting process where possible. That review should also include features of the RSG that are relevant to replicating the process even if they are not specifically determined by the Framework. An example is the size of the Central Coast RSG, which exceeds levels recommended for effective participation and is not likely to be replicable in other regions.

We appreciate the many hours the Blue Ribbon Task Force has spent, and the Commission no doubt will spend listening to public comment on the MLPA process. Though the Framework isn't perfect, we believe it's a good start, and recommend its adoption, with the understanding that it may be changed as lessons are learned from the Central Coast Project. We urge the Commission to incorporate the changes in this letter if you choose to make changes at all. Thank you for the opportunity to comment.

Sincerely,

Karen Garrison
NRDC

Erin Simmons
The Ocean Conservancy

Cc: Chair Phil Isenberg and members of the MLPA Blue Ribbon Task Force